

FINDING OF EMERGENCY

The Department of Motor Vehicles (the department) finds that the amendment of Sections 345.39, 345.45, 345.56 and 345.78 in Title 13, Division 1, Chapter 1, Article 4.7, California Code of Regulations, is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

BACKGROUND

The Legislature enacted AB 3049 (Chapter 952, Stats 2004) to modify California's commercial motor vehicle laws to ensure compliance with Title 49, Code of Federal Regulations. Failure of a state to adopt statutes and regulations that are compatible with federal regulations by September 30, 2005, will result in the withholding of federal-aid highway funds and Motor Carrier Safety Assistance Program (MCSAP) grant funds.

FACTS DEMONSTRATING THE NEED FOR IMMEDIATE ACTION

The department finds that the emergency adoption of these regulations is necessary for the immediate preservation of the public peace, health and safety or general welfare pursuant to Government Code Section 11346.1(b).

The immediate amendment of the proposed regulations would bring licensed traffic violator schools into conformity with the federal regulations designed to promote traffic safety for the general public by setting a higher standard for commercial drivers as promulgated in federal regulations.

The proposed regulations establish an additional means to ensure that a commercial driver is prohibited from completing a traffic violator school in lieu of adjudicating a traffic offense. Without these provisions it would be possible for a commercial driver to avoid the consequences of federally mandated actions against his/her driving privilege.

The proposed regulations are necessary for the department to govern licensed traffic violator schools to ensure compliance with the new state and federal commercial motor vehicle laws.

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The proposed regulatory action will modify the existing regulations to comply with California law that will become effective on September 20, 2005, ten days before the federal compliance deadline of September 30, 2005. The California law was enacted to comply with federal regulations that prohibit courts from referring a commercial driver to a traffic violator school in lieu of adjudicating a traffic offense. The change in the law and accompanying regulations may result in additional commercial drivers being disqualified from operating a commercial vehicle because of poor driving and safety habits. This proposed regulatory modification would encourage more careful driving by commercial drivers and stop unsafe and careless commercial drivers from driving on the road with the general public.

This regulatory action imposes limitations on course attendance and allows the department to verify that licensed traffic violator schools are compliant with the state and federal commercial motor vehicle laws.

Presently, there is insufficient time to publish notices, hold hearings and comply with other regulatory requirements in order to meet the federal deadline. The regular rulemaking process will be initiated and completed as soon as possible.

The department has conferred with industry representatives of its intention to adopt regulations consist with the new state and federal requirements for commercial drivers.

AUTHORITY AND REFERENCE

The department proposes to adopt these regulations under the authority granted by Vehicle Code Sections 1651, 11202 and 11219 in order to implement, interpret or make specific Vehicle Code Section 15210 and 42005.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Section 11202(a)(2) authorizes the department to establish standards for traffic violator school curriculum and business practices. Vehicle Code Section 11219 allows regulations for traffic violator schools regarding the conduct of courses including curriculum.

The department proposes to amend Sections 345.39, 345.45, 345.56 and 345.78, in Title 13, California Code of Regulations to comply with the federal regulations and California Vehicle Code Sections 11202, 15210 and 42005, which will become effective on September 20, 2005.

§345.39. Conducting Classes. Section 345.39 will require the traffic violator school instructor to view each student's driver license to verify the information provided on the roster sheet or enrollment card.

§345.45. Issuance, Content and Disposition of Completion Certificates. Section 345.45 will identify the current revision of the completion certificate, the information required on the certificate, and identify who is not qualified to receive a certificate.

§345.56. Business Records. Section 345.56 will identify the information required on the records of every traffic violator school class.

§345.78. Traffic Violator School Attendance. Section 345.78 will require each traffic violator school to verify the class of driver license and the citation for each student prior to attending the course and identify who may not attend a traffic violator school in lieu of adjudicating a traffic offense.

DOCUMENTS INCORPORATED BY REFERENCE

- Completion Certificate, OL 730 (Rev 2/2005)

It would be impractical, cumbersome or unduly expensive to publish the document in the California Code of Regulations. The certificates are currently available to all licensed traffic violator schools upon submitting a request and the appropriate fees to the Occupational Licensing Section or select Field Office locations.

BUSINESS REPORTING REQUIREMENT

The regulations contain a requirement for one or more reports that is applicable to businesses. The department finds that it is necessary for the health, safety, or welfare of the people of the state that the regulations apply to businesses.

FISCAL IMPACT STATEMENT

- Cost or Savings to Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: None.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action has no effect that would have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The regulatory action proposed by the department will modify the existing regulations to comply with California law that will become effective on September 20, 2005, and federal regulations that prohibit courts from referring a commercial driver to a traffic violator school in lieu of adjudicating a traffic offense.
- The adoption of this regulation will not create or eliminate jobs or businesses in the state of California nor will it result in the elimination of existing businesses, or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses as approximately 95% of the department's existing traffic violator schools are small businesses under Government Code section 11342.610.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8898; or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, (916) 657-5690, or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.